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## FISCAL IMPACT REPORT

SPONSOR Jennings DATE TYPED 3-7-05 HB \_\_\_\_\_

SHORT TITLE Prohibit Denial of Medical Staff Privileges SB 776/aSPAC

ANALYST Collard

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
			Minimal		

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Department of Health (DOH)

Human Services Department (HSD)

Aging and Long-Term Services Department (ALTSD)

### SUMMARY

#### Synopsis of SPAC Amendment

The Senate Public Affairs Committee amendment to Senate Bill 776 deletes language defining a Class A county. The bill originally exempted only hospitals in Bernalillo County. HSD notes, based on a review of the current population levels reported on the Association of Counties website, the amended bill will also exempt hospitals in Santa Fe, Dona Ana and San Juan counties.

#### Synopsis of Original Bill

Senate Bill 776 prohibits certain hospitals from denying medical staff privileges for reasons other than a physician's individual qualifications. Hospitals included are those licensed by DOH, certified for participation in Medicare and Medicaid, or those receiving funding from local or state sources, with the exception of those hospitals located in class A counties with populations exceeding five hundred thousand.

Physicians who are denied membership or privileges by a hospital may appeal the decision to the New Mexico Medical Board. If the physician is found professionally competent and the hospital

continues to deny staff membership or clinical privileges, DOH shall suspend the Medicare and Medicaid certification and deny additional state or local funding disbursements to the hospital.

### Significant Issues

DOH indicates its Division of Health Improvement's Health Facility Licensing and Certification Bureau (HFLC) has the authority to certify hospitals pursuant to its agreement with the federal Centers for Medicare and Medicaid Services (CMS) and CMS regulations. HFLC does not have the authority to suspend certification based on state regulations or statute. HFLC can take action on certification under federal authority and approval. DOH has no authority over state and local funding to hospitals. Hospitals receive Medicaid and Medicare payments through HSD.

HSD believes that hospitals should make physician-credentialing decisions based upon quality of care and professional competence. However, automatically suspending a non-compliant hospital from participating in the Medicaid program may unduly affect Medicaid clients who need access to that institution. Moreover, the bill does not define the period of such suspensions and they may be permanent.

### **FISCAL IMPLICATIONS**

There is no appropriation associated with this bill. The fiscal implications appear to be minimal for administering and carrying out the provisions of the bill.

### **TECHNICAL ISSUES**

HSD suggests the bill be amended to make the decision to suspend a non-compliant hospital from serving Medicaid clients to be discretionary rather than mandatory and allow HSD to make the determination to suspend the hospital.

The bill does not define the period of the hospital's suspension from serving Medicaid clients and other related sanctions in the event that it found to be noncompliant. The bill should define the period of any suspension or sanction.

**KBC/yr:lg**